

June 28, 2011

A regular meeting of the Council of the City of Bedford, Virginia, was held in the Council Hall of the Municipal Building at 7:08 p.m., June 28, 2011.

Members present: Mayor W. D. Tharp; Councilwoman Mary L. Flood; Councilman Guy E. Murray, Jr.; Councilman Steve C. Rush; Councilman C. G. Stanley, Jr.; Councilman James A. Vest; and Vice Mayor Robert T. Wandrei

Members absent: None

Staff present: City Manager Charles P. Kolakowski; City Attorney W. W. Berry, IV; and Clerk of the Council Teresa W. Hatcher.

Mayor Tharp opened the meeting and led all present in saying the Pledge of Allegiance to the Flag.

Mayor Tharp declared that the minutes of an adjourned Council meeting held on June 14, 2011, and the minutes of a regular Council meeting held on June 14, 2011, were approved as distributed.

City Manager Kolakowski reported on the following:

- The work on the Stoney Creek Reservoir Dam Rehabilitation continues on schedule and on budget – asked members of Council to let him know if they would like to go view the project on June 30.
- On July 4 Libertyfest will be held at the Farmer's Market and the City sponsored fireworks will be held at dark.

Councilman Vest asked the Clerk of Council to read aloud the following letter to the editor that was recently published in a local newspaper.

Cowardly politicians

I want to express my strong support for The News & Advance's June 22 editorial "The Scandal of Virginia's Highways."

You are completely correct that our legislators have failed all of us by refusing to fund core government services such as our roads adequately. We constantly hear our representatives pat themselves on the back for "having the courage to make the tough choices."

It's not brave to cut school funding. It's not brave to cut benefits for our police and firefighters. It's not brave to ignore our crumbling infrastructure. It's not brave to leave the gasoline tax at 17.5 cents a gallon for almost 25 years with no increase and pretend to be acting responsibly.

True bravery would be telling us what we don't want to hear-but need to hear: If we want to live in a state with thriving businesses, safe streets, functioning transportation and educated children, we have to pay for it. A good transportation system constitutes the lifeblood of our economy and shortchanging it shortchanges us all.

June 28, 2011

Transportation isn't the only place where taking shortcuts and underfunding our government is going to cost us in the long run. Cuts to education, healthcare and public safety all hurt our prosperity eventually and constitute neglect of our children and grandchildren. I am so aware of the wonderful legacy left to us in Lynchburg and all Virginia by our parents and grandparents- I don't want to be the generation that breaks that chain.

We need to get serious about getting ourselves a tax code that works well for Virginia today,

Without bringing in new revenue we're going to need to go to a museum to see what a prosperous Virginia used to look like, and we won't even have good roads to get there.

Ron Feinman
Lynchburg

The following revisions were made to the agenda: add a closed session pursuant to Section 2.2-3711(a)(1) of the Code of Virginia of 1950, as amended, to discuss personnel matters; add appointment of three members to the Bedford City School Board; and delete agenda item "Adoption of City Investment Policy."

The City Manager read aloud the following Notice of Public Hearing:

PUBLIC HEARING NOTICE

Notice is hereby given of a public hearing to be held by the City Planning Commission at 5:30 p.m. on Thursday, June 2, 2011 and by the City Council at 7:00 p.m. on Tuesday, June 28, 2011 at the City Municipal Building, Council Hall, 215 E. Main Street for the following purpose:

- To consider rezoning 812 E. Main Street, Bedford, VA, 24523, Tax Map #215-8-A from R1A, Low Density Residential to B-1, Limited Business. The request is made by Brian J. Runk, President & CEO, Runk & Pratt Health Care Enterprises Inc.
- To consider an amendment to the City of Bedford Land Development Regulations Specific Definitions, Section 302.1 Accessory Use, adding Temporary Family Health Care Structure in compliance with the Code of Virginia 15.2-2292.1; Single Family Residential District, R-1, Section 602.01 Permitted Uses, adding item a.1; and Fees, Section 1401 General, Item e. Zoning.

Information regarding this rezoning and zoning amendments are on file in the office of Planning & Community Development.

Anyone who is in favor of or opposed to these requests will have an opportunity to express their views at this hearing.

June 28, 2011

By the Authority of the Planning Commission
and City Council of the City of Bedford

Mayor Tharp opened the public hearing at 7:15 p.m. As there were no comments, the Mayor closed the public hearing at 7:15 p.m.

Mayor Tharp opened the public hearing at 7:16 p.m. regarding consideration of rezoning from R-1A to B-1 a parcel on East Main Street. As there were no comments, the Mayor closed the public hearing at 7:16 p.m.

City Manager Kolakowski read aloud the following Public Hearing Notice:

**NOTICE OF PUBLIC HEARING ON PROPOSED
POWER SALES CONTRACT BETWEEN
THE CITY OF BEDFORD, VIRGINIA AND
AMERICAN MUNICIPAL POWER-OHIO, INC.**

Notice is hereby given that the City Council of the City of Bedford, Virginia (the "Council") will hold a public hearing on a proposed power sales contract (the "Contract") among the City of Bedford, Virginia (the "City"), American Municipal Power-Ohio, Inc. ("AMP-Ohio"), and certain other localities. Under the 50-year Contract, the City will purchase wholesale electric power and energy in the approximate amount of 9,402 Kilowatts, as may be adjusted upward or downward, which will be delivered to the retail customers of the City's electric distribution system.

The City's payments under the Contract will be made solely from the revenues of its electric system, and neither the faith and credit nor the taxing power of the City will be pledged for the payment of any obligation under the Contract. Among other provisions, the Contract will require that the City make certain payments whether or not the generation facilities are completed or operable, and notwithstanding any interruption in the generation of electric power and energy. In the event of a default by another wholesale purchaser under the Contract, the City will become obligated to assume a pro rata share of that purchaser's payment obligations, subject to a certain maximum amount, and will succeed to that purchaser's rights to receive electric power and energy. Based on the best currently available estimates, the City's total payments under the Contract would range from \$3.5 million in 2013 to \$6.7 million in 2032. Estimates beyond 2032 have not been made at this time. In the event the City assumed a share of the payment obligations of a defaulting purchaser, its obligations would increase by a maximum of 25%.

The public hearing, which may be continued or adjourned, will be held at 7:00 p.m. on Tuesday, June 28, 2011, before the Council in the Council

June 28, 2011

Chambers at City Hall, 215 East Main Street, Bedford, Virginia. Any person interested in the proposed Contract may appear at the hearing and present his or her views.

By the Authority of the
City Council of the City of Bedford

Mayor Tharp opened the public hearing at 7:17 p.m. As there were no comments, the Mayor closed the public hearing at 7:17 p.m.

The City Manager stated that the terms of three members of the City School Board expire on June 30, 2011. Four individuals have asked to be considered for appointment: Ms. Phyllis Parker, Ms. Mickey VanDerwerker, Ms. Tabitha King, and Ms. Tara Warner. City Manager Kolakowski said in accordance with Section 22.1-29.1 of the Code of Virginia, a public hearing was held May 24, 2011, to receive the views of citizens on these appointments and interviews were held June 14 and June 28, 2011. The City Manager said that Council was requested to fill the three vacancies on the City School Board, said terms to expire June 30, 2014.

Vice Mayor Wandrei moved that City Council appoint Ms. Tara Warner, Ms. Phyllis Parker, and Ms. Tabitha King to fill the three vacancies (terms to expire June 30, 2014). The motion was seconded by Councilman Rush, voted upon and carried unanimously by the following roll call vote:

Councilwoman Flood	aye
Councilman Murray	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Mayor Tharp	aye

City Manager Kolakowski reported that the General Assembly recently amended Section 15.2-2292.1 of the Code of Virginia requiring localities to allow Temporary Family Health Care Structures as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings. Mr. Kolakowski said the Planning Commission met on June 2, 2011, and recommended that Council make the appropriate amendments to the Land Development Regulations as contained in the proposed ordinance.

On motion by Councilman Murray, seconded by Councilman Stanley, voted upon and carried unanimously by a roll call vote, Council adopted the proposed ordinance amending the Land Development Regulations. Roll call vote follows:

Councilman Murray	aye
Councilman Rush	aye

June 28, 2011

Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Mayor Tharp	aye

The Ordinance follows as adopted:

Ordinance No. 11-7

**AN ORDINANCE AMENDING THE CITY OF BEDFORD
LAND DEVELOPMENT REGULATIONS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEDFORD,
VIRGINIA:**

Section 1. The Land Development Regulations of the City of Bedford, Virginia, are amended by adding the following language:

Section 302 Specific Definitions.

302.01 Accessory Use. A use customarily incidental and subordinate to the main use, such as a garage, shed, swimming pool, or a Temporary Family Health Care Structure

302.168 Temporary Family Health Care Structure. An accessory use or building compliant with §15.2-2292.1 of the Code of Virginia

Section 602. Single Family Residential District R-1

Section 602.01 Permitted Uses. Within Residential District R-1 the following uses are permitted:

- a. Accessory uses, provided the requirements of Section 901 are met.
 1. Temporary Family Health Care Structures are subject to certification from a medical doctor stating the facility is needed for its intended use on an annual basis. No fee shall be required for a Temporary Family Health Care Structure.

Section 2. This ordinance shall be effective upon enactment.

City Manager Kolakowski stated that Brian J. Runk is the owner of a property on East Main Street identified as tax parcel 215-8-A. The property's use as a retirement home

June 28, 2011

was recently discontinued after many years. The owner wishes to preserve the existing historic structure by using it as a bed and breakfast inn and conference facility. The property is adjacent to the B-1, Limited Business District. The City Manager reported that the Planning Commission met on June 2, 2011, and recommended approval of the proposed rezoning. City Council was requested to adopt the proposed ordinance recommended by the Planning Commission.

On motion by Councilman Rush, seconded by Councilwoman Flood, voted upon and carried by a roll call vote, Council adopted the proposed ordinance. Roll call vote follows:

Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Councilman Murray	aye
Mayor Tharp	aye

The ordinance follows as adopted:

Ordinance No. 11-8

**AN ORDINANCE CHANGING THE ZONING MAPS
FOR THE CITY OF BEDFORD BY REZONING
FROM R-1A TO B-1 A PARCEL ON EAST MAIN STREET**

WHEREAS, the Planning Commission of the City of Bedford held a public hearing on June 2, 2011; and

WHEREAS, the City Council held a public hearing after notice was given in the *Bedford Bulletin* once a week for two successive weeks as required by Virginia Code 15.2-2204;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, VIRGINIA:

Section 1. The Zoning Map of the City of Bedford is amended by rezoning from Low Density Residential (R-1A) to Limited Business (B-1) the following tax parcel:

215-8-A.

Section 2. This ordinance is effective upon enactment.

The City Manager said that the Fremont Energy Project has been reviewed AMP staff, AMP counsel and consultants, the Blue Ridge Power Agency, Fred Ritts, GDS, Inc., and

June 28, 2011

City staff and City Council. Mr. Kolakowski stated it was the recommendation of all of those parties that the City participate in this particular plant – it is a gas fired generating plant and will help the City to diversify its portfolio of energy purchases. Mr. Kolakowski said this is a thirty-six year contract, a long term agreement. It is the policy of the City to try and get a number of different types of energy purchases in order to buffer it from any severe fluctuations in the market. This agreement has already been agreed to by several other municipally owned electric utilities in the state, including Front Royal, Danville, and Martinsville.

On motion by Councilman Murray, seconded by Vice Mayor Wandrei, voted upon and carried unanimously by a roll call vote, Council adopted the proposed resolution authorizing the execution of a power sales contract with American Municipal Power, Inc. Roll call vote follows:

Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Councilman Murray	aye
Councilman Rush	aye
Mayor Tharp	aye

The resolution follows as adopted:

**RESOLUTION OF THE
CITY COUNCIL OF THE CITY OF BEDFORD
TO APPROVE THE FORM AND
AUTHORIZE THE EXECUTION OF A POWER SALES CONTRACT WITH
AMERICAN MUNICIPAL POWER, INC. AND
TAKING OTHER ACTIONS IN CONNECTION THEREWITH
REGARDING PARTICIPATION IN THE
AMP FREMONT ENERGY CENTER**

WHEREAS, the City of Bedford, Virginia (“hereinafter Municipality”) owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, in order to satisfy the electric power and energy requirements of its electric utility system, Municipality has heretofore purchased, or desires to purchase in the future, power and energy from, or arranged by, American Municipal Power, Inc. (hereinafter “AMP”), of which Municipality is a Member; and

WHEREAS, Municipality, acting individually and, along with other municipalities which own and operate electric utility systems, jointly, endeavors to arrange for reliable, reasonably priced supplies of electric power and energy for ultimate delivery to its customers; and

WHEREAS, it is efficient and economical to act jointly in such regard; and

June 28, 2011

WHEREAS, AMP is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric power and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of AMP members ("Members"), such Members, including Municipality, being, and to be, political subdivisions of their respective states that operate municipal electric utility systems in, as of the date of adoption hereof, Kentucky, Michigan, Ohio, Pennsylvania, Virginia and West Virginia; and

WHEREAS, each of the Members owns and operates its electric system for the benefit of its customers; and

WHEREAS, certain of the Members, including the Municipality, ("Participants") have determined they require additional, long-term sources of reliable intermediate electric capacity and energy at reasonable costs and has requested that AMP arrange for the same by developing or otherwise acquiring interests in certain intermediate generation facilities; and

WHEREAS, in furtherance of such purpose, AMP intends to finance, construct, operate and own up to a one hundred percent (100%), and in any case not less than an eighty percent (80%), undivided ownership interest, in the Fremont Energy Center having an expected net rated electric generating capacity of approximately six hundred seventy five (675 MW), consisting of 512 MW of base capacity and 163 MW of "duct-fired" peaking capacity, to be known collectively as the American Municipal Power Fremont Energy Center (as hereinafter defined, "AMP Fremont Energy Center"); and

WHEREAS, AMP has resolved, in accordance herewith, to develop, including, as appropriate, the financing, acquisition, construction, ownership and operation of, and arrangements for the acquisition, , financing, payment and prepayment of fuel for, its ownership interest in the AMP Fremont Energy Center (the "Project") as well as other arrangements related thereto, which AMP and, in certain cases, the Participants, deem necessary to enable AMP to fulfill its obligations hereunder to sell and transmit, or otherwise make available, electric capacity and energy to the Participants pursuant to the Fremont Energy Center Power Sales Contract (hereinafter "PSC"); and

WHEREAS, in order to obtain such sources of electric capacity and energy, the Participants are willing to pay AMP for their respective rights to such electric capacity and energy and transmission service at rates that are sufficient, but only sufficient, to enable AMP to (i) recover all costs and expenses incurred with respect to, and arrangements for the acquisition, financing, payment and prepayment of fuel for, the Project as set forth herein, all other Power Sales Contract Resources obtained by AMP to supplement the Project, and related service arrangements undertaken by AMP to enable it to fulfill its obligations hereunder, and (ii) recover any other expenditures or revenues authorized hereunder.

WHEREAS, AMP has investigated both a self-build of a new natural gas combined cycle project as well as the acquisition of one of several existing natural gas combined cycle projects either operating or in various stages of construction; and

WHEREAS, because the expected in service date of the Fremont Energy Center is on or about January 1, 2012, certain Participants may need to have AMP rearrange their current power supply portfolio by selling certain already purchased power, principally for

June 28, 2011

2012 through 2015, into the market ("Buy-Out") and finance the cost of such transaction pursuant to the PSC.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEDFORD, VIRGINIA:

SECTION 1. That the PSC between Municipality and AMP, substantially in the form on file with the City Clerk including Appendices thereto is approved, and the City Manager of Municipality is hereby authorized to execute and deliver such Power Sales Contract, with such changes as the City Manager may approve as neither inconsistent with this Ordinance/Resolution nor materially detrimental to the Municipality and report said changes to City Council, his or her execution of the PSC to be conclusive evidence of such approval.

SECTION 2. That the City Manager is hereby authorized to acquire on behalf of the Municipality, as a Participant, as defined in the PSC, Power Sales Contract Resources (hereinafter "PSCR Share"), as defined in the PSC, from AMP and to execute and deliver any and all documents necessary to become a Participant in the AMP Fremont Energy Center project pursuant to the conditions set forth herein and in the PSC and to carry out its obligations thereunder and to arrange for the Buy-Out of any excess power and energy currently under contract with AMP as the City Manager deems in the best interests of the Municipality.

SECTION 3. That it is further acknowledged and understood that because the Participants will finalize the precise PSCR Share to be acquired by each Participant electing to enter into the PSC after all such Participants execute and deliver the PSC, the City Manager in connection with the execution and delivery of the PSC, is authorized and directed to determine and acquire Municipality's PSCR Share (not taking into account the Step-Up as defined in the PSC), of up to a nominal amount of 7,300 kilowatts, after consultation with AMP and the other Participants regarding the PSCR Share available pursuant to said PSC, such PSCR Share to be set forth in Appendix A of the PSC, such determination as to such PSCR Share being conclusively evidenced by the adoption of Appendix A to the PSC, as authorized therein.

SECTION 4. That the City Manager, as a part of such officer's official duties, is hereby appointed as Municipality's representative for any meetings or determinations of the Participants or the Participants Committee pursuant to the PSC and is authorized and directed, acting for, in the name of and on behalf of this Municipality, to vote Municipality's PSCR Share with regard to any determinations regarding the AMP Fremont Energy Center project as set forth in the PSC.

SECTION 5. That the City Manager may appoint, in writing from time to time as convenient or necessary, another appropriate representative of the Municipality as his or her alternate to carry out the duties set forth in Section 4 hereof.

SECTION 6. That it is found and determined that all formal actions of City Council concerning and relating to the passage of this Resolution were taken in conformance with applicable open meetings laws and that all deliberations of this Council and of any committees that resulted in those formal actions were in compliance with all legal requirements including any applicable open meetings requirements.

SECTION 7. If any section, subsection, paragraph, clause or provision or any part thereof of this Resolution shall be finally adjudicated by a court of competent

June 28, 2011

jurisdiction to be invalid, the remainder of this Resolution shall be unaffected by such adjudication and all the remaining provisions of this Resolution shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

SECTION 8. That this Resolution shall take effect immediately.

The City Manager reported that there are a number of issues that need to be discussed at a work session such as: the Investment Policy, some policy recommendations for the electric utility, water and sewer utility, and finance. Mr. Kolakowski said a work session could be held prior to next regular meeting.

City Manager Kolakowski said the City has received funds from the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services in the amount of \$4,678.47. This represents the City's portion of the "Four-for-Life" funds collected per Section 46.2-694 of the Code of Virginia. These funds need to be appropriated to the revenue and expenditure account for the Bedford Life Saving Crew. The City Manager said that Council was requested to appropriate the funds to the appropriate revenue and expenditure account for the Bedford Life Saving Crew.

On motion by Councilman Stanley, seconded by Councilman Rush, voted upon and carried unanimously by a roll call vote, Council appropriated the funds from the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services in the amount of \$4,678.47 to the appropriate revenue and expenditure account for the Bedford Life Saving Crew. Roll call vote follows:

Councilman Vest	aye
Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Councilman Murray	aye
Councilman Rush	aye
Councilman Stanley	aye
Mayor Tharp	aye

Councilman Murray moved that Council adjourn into closed session pursuant to Section 2.2-3711 (a)(1) of the Code of Virginia of 1950, as amended, to discuss personnel matters. Councilman Rush seconded the motion, which was voted upon and carried by the following roll call vote:

Vice Mayor Wandrei	aye
Councilwoman Flood	aye
Councilman Murray	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye

June 28, 2011

Mayor Tharp aye

Council adjourned into closed session at 7:18 p.m.

Council reconvened into open session at 7:46 p.m.

The Clerk of Council read aloud the following resolution:

BE IT RESOLVED that the Council of the City of Bedford hereby certifies that (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

On motion by Councilman Murray, seconded by Vice Mayor Wandrei, voted upon and carried by a roll call vote, Council adopted the resolution. Roll call vote follows:

Councilwoman Flood	aye
Councilman Murray	aye
Councilman Rush	aye
Councilman Stanley	aye
Councilman Vest	aye
Vice Mayor Wandrei	aye
Mayor Tharp	aye

Mayor Tharp adjourned the meeting at 7:47 p.m.